IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.6004 OF 2018
WITH WP/6005/2018 WITH WP/6006/2018 WITH WP/6007/2018
WITH WP/6008/2018 WITH WP/6009/2018 WITH WP/6010/2018
WITH WP/6011/2018 WITH WP/6012/2018 WITH WP/6013/2018
WITH WP/6014/2018 WITH WP/6015/2018 WITH WP/6016/2018
WITH WP/6017/2018 WITH WP/6018/2018 WITH WP/6019/2018
WITH WP/6020/2018 WITH WP/6021/2018 WITH WP/6022/2018
WITH WP/6023/2018 WITH WP/6024/2018 WITH WP/6025/2018
WITH WP/6026/2018 WITH WP/6027/2018 WITH WP/6028/2018
WITH WP/6029/2018 WITH WP/6030/2018 WITH WP/6031/2018
WITH WP/6032/2018 WITH WP/6033/2018 WITH WP/6034/2018
WITH WP/6035/2018 WITH WP/6036/2018 WITH WP/6037/2018
WITH WP/6038/2018 WITH WP/6039/2018 WITH WP/6040/2018
WITH WP/6041/2018 WITH WP/6042/2018 WITH WP/6043/2018
WITH WP/6044/2018 WITH WP/6045/2018 WITH WP/6046/2018
WITH WP/6047/2018 WITH WP/6048/2018 WITH WP/6049/2018
WITH WP/6050/2018 WITH WP/6051/2018 WITH WP/6052/2018
WITH WP/6053/2018 WITH WP/6054/2018 WITH WP/6055/2018
WITH WP/6056/2018 WITH WP/6057/2018 WITH WP/6058/2018
WITH WP/6059/2018 WITH WP/6060/2018 WITH WP/6061/2018
WITH WP/6062/2018 WITH WP/6063/2018 WITH WP/6064/2018
WITH WP/6065/2018 WITH WP/6066/2018 WITH WP/6067/2018
WITH WP/6068/2018 WITH WP/6069/2018 WITH WP/6070/2018
WITH WP/6071/2018 WITH WP/6072/2018 WITH WP/6635/2018
WITH WP/6636/2018 WITH WP/6637/2018 WITH WP/6638/2018
WITH WP/6639/2018 WITH WP/6640/2018 WITH WP/6641/2018
WITH WP/6642/2018 WITH WP/6643/2018 WITH WP/6644/2018
WITH WP/6645/2018 WITH WP/6646/2018 WITH WP/6647/2018
WITH WP/6648/2018 WITH WP/6649/2018 WITH WP/6650/2018
WITH WP/6651/2018 WITH WP/6652/2018 WITH WP/6668/2018
WITH WP/6669/2018 WITH WP/6670/2018 WITH WP/6671/2018
WITH WP/6672/2018 WITH WP/6673/2018 WITH WP/6674/2018
WITH WP/6675/2018 WITH WP/6676/2018 WITH WP/6677/2018
WITH WP/6678/2018 WITH WP/6679/2018 WITH WP/6680/2018
WITH WP/6681/2018 WITH WP/6682/2018 WITH WP/6683/2018
WITH WP/6684/2018 WITH WP/6685/2018 WITH WP/6686/2018
WITH WP/6687/2018 WITH WP/6688/2018 WITH WP/6689/2018
WITH WP/6690/2018 WITH WP/6691/2018 WITH WP/6692/2018
WITH WP/6693/2018 WITH WP/6694/2018 WITH WP/6695/2018
WITH WP/6696/2018 WITH WP/6697/2018 WITH WP/6698/2018

WITH WP/6699/2018 WITH WP/6700/2018 WITH WP/6701/2018
WITH WP/6702/2018 WITH WP/6703/2018 WITH WP/6704/2018
WITH WP/6705/2018 WITH WP/6706/2018 WITH WP/6707/2018
WITH WP/6708/2018 WITH WP/6709/2018 WITH WP/6710/2018
WITH WP/6711/2018 WITH WP/6712/2018 WITH WP/6713/2018
WITH WP/6714/2018 WITH WP/6715/2018 WITH WP/6716/2018
WITH WP/6717/2018 WITH WP/6718/2018 WITH WP/6719/2018
WITH WP/6720/2018 WITH WP/6721/2018 WITH WP/6722/2018
WITH WP/6723/2018 WITH WP/6724/2018 WITH WP/6725/2018
WITH WP/6726/2018 WITH WP/6727/2018 WITH WP/6728/2018
WITH WP/6729/2018 WITH WP/6730/2018 WITH WP/6731/2018
WITH WP/6732/2018 WITH WP/6733/2018 WITH WP/6734/2018
WITH WP/6735/2018 WITH WP/6736/2018 WITH WP/6737/2018
WITH WP/6738/2018 WITH WP/6739/2018 WITH WP/6740/2018
WITH WP/6741/2018 WITH WP/6742/2018 WITH WP/6743/2018
WITH WP/6744/2018 WITH WP/6745/2018 WITH WP/6746/2018
WITH WP/6747/2018 WITH WP/6748/2018 WITH WP/6749/2018
WITH WP/6750/2018 WITH WP/6751/2018 WITH WP/6752/2018
WITH WP/6753/2018 WITH WP/6754/2018 WITH WP/6755/2018
WITH WP/6756/2018 WITH WP/6757/2018 WITH WP/6758/2018
WITH WP/6759/2018 WITH WP/6760/2018 WITH WP/6761/2018
WITH WP/6762/2018 WITH WP/6763/2018 WITH WP/6764/2018
WITH WP/6765/2018 WITH WP/6766/2018 WITH WP/7046/2018
WITH WP/7047/2018 WITH WP/7048/2018

THE UNION OF INDIA AND ANOTHER
VERSUS
LAHANU DONDIBA KHADE AND OTHERS

...
Advocate for Petitioners : Shri Navandar Manish N.
AGP for Respondents : Shri Bhagat N.T.
Advocates for Respondents : S/Shri Jayabhar D.R., Shirsat S.R., Salunke S.J., Avhad N.R., Choudhari S.B. & Shinde C.K.
...

(CORAM : Ravindra V.Ghuge, J.)

DATE : 30/01/2019

PER COURT :

1. I have considered the extensive submissions of the learned Advocates and the learned AGP appearing on behalf of the respective sides on 29/01/2019. Since it was past 6.00 p.m. that these matters were posted today for "passing orders".

2. The contentions of the petitioners in these identical cases are that that the impugned order, specimen being in the first petition dated 25/03/2017, is an outcome of an alleged compromise in the Lok Adalat. It appears from the said compromise award that the claimant, his Advocate and the S.D.O. Patoda have signed on the terms of the compromise. There is no signature of the Advocate representing the State, in as much as, neither the petitioners have agreed to the compromise, nor have the petitioners or their advocates signed on the compromise to indicate the acceptance of the terms of compromise. Further grievance is that the Head of the Panel is a Judge at the local level and two Advocates who were members of the Panel have also signed, in the absence of the acquiring body. A document Exh.15 is said to be the terms of the compromise on the basis of which the award has been delivered. It is clarified that the dates of the award and the dates appearing on the terms of compromise are different in each of these cases.

3. Learned Advocate for the petitioners submits that these petitions have been filed by Chandrabhushan Chhatrapal Singh who is the Deputy Chief Engineer (Construction) Central Railways, Ahmednagar, who has been duly instructed and authorized to file these petitions. He submits that the basic grievance of the petitioners is that though one of the representatives of the acquiring body had participated in certain meetings which were a run up to the placing of the matters in the Lok Adalat, the said representative namely Amar Kumar Akela, Jr.Engineer (Civil), Indian Railways, had specifically contended that though the quantum of enhancement seems to be alright, he does not have the authority and jurisdiction to make a statement of accepting the said quantum which would bind the Indian Railways. Despite the same, the matter was placed before the Lok Adalat. As the proposed terms were not acceptable to the Indian Railways, it went unrepresented in the Lok Adalat.

4. He further adds that Regulation 13 of the National Legal Services Authority (Lok Adalat) Regulations, 2009 as framed by the Central Government deals with the procedure of conducting Lok Adalats and arriving at compromises. Regulation 13(2) clearly mandates that the members of the Lok-Adalats shall not pressurize

or coerce any of the parties to compromise or settle cases or matters, either directly or indirectly.

5. He, therefore, draws my attention to the 5 grounds formulated in the memo of the petition which read as under :-

(I) Whether the Lower Court has any powers to pass award in terms of Compromise Deed wherein the petitioners are not party and/or signatory to the proceedings before the Lok Adalat, Beed to the settlement.

(II) When the acquiring body i.e. the petitioners/Railway Administration is not a party to the Settlement/Compromise Deed that has allegedly arrived in between the Claimant and the State Government, whether the same could be binding on the petitioners and whether the same could be executed having no force in the eye of Law.

(III) Whether the Lok Adalat was legally right to enter and record a Compromise Deed/Settlement in the matter when the main party i.e. the petitioners/Railway Administration itself is not a signatory to such compromise that has been recorded behind the back of the petitioners by the Lok Adalat, Beed.

(IV) Whether it was not necessary for the Ld.Ad-hoc District

Judge-1, Beed to have verified the alleged compromise deed prior to passing of the Award in terms of such compromise deed wherein admittedly the petitioners/Acquiring Body is not a party and without the petitioners the Settlement cannot take place.

(V) Whether the Settlement/Compromise Deed and the Award being illegal deserves to be quashed and set aside in the facts and circumstances of the case ? *[Reproduced verbatim]*

6. He further adds that it is the petitioner/acquiring body that is responsible for making the payments of enhanced compensation. Unless the quantum of compensation is accepted, neither the Lok Adalat Panel nor this Court would foist such terms of compromise on the petitioners.

7. The learned AGP relies upon an affidavit in reply filed by Mr.Ganesh Keshav Nirhale, Sub-Divisional Officer, Patoda and contends that the Maharashtra Government has passed a Resolution dated 13/10/2011 thereby forming a Committee under the Chairmanship of the District Collector and comprising of the Town

Planner, the concerned Land Acquisition Officer. An Officer of the Acquiring Body and the concerned District Government Pleader. Meeting of this Committee was held on 24/03/2017, 06/06/2017 and 06/07/2017. The object of the formation of such Committee was to seek an early resolution by consent, in the land acquisition reference cases, wherein the claim is under Rs.25,00,000/-. The representative of the petitioner was present in these meetings and since he agreed with the rate that was finalized, it was decided to refer all these cases to the L.A.R. Lok Adalat held on 25/03/2017 and 08/07/2017.

8. He further submits that the representative of the petitioners Mr.Vidyadhar Dhandore was present on 25/03/2017, Mr.S.R.Kuwar was present on 06/06/2017 and Mr.Amar Kumar Akela was present on 06/07/2017. They were all aware of the rates being discussed and which were accepted by the claimants. He, therefore, prays that these petitions be dismissed.

9. When called upon to state as to whether the learned AGP would canvass that the compromise terms not signed and not accepted by the Acquiring Body should be foisted upon them and that if they don't agree to pay, the State Government would make the

payment, he submitted that the State Government has no role to play in so far as the actual payment is concerned. He states that the State Government, in the interest of the poor farmers and agriculturists whose lands have been acquired, has acted as a catalyst by forming a Committee for seeking an expeditious resolution to such case.

10. Learned Advocates appearing on behalf of the agriculturists/ claimants who are identically placed respondents in these matters, vehemently oppose these petitions and submit that all these petitions are aimed at harassing the agriculturists. Their lands have been acquired several years ago. On the one hand, they have lost their lands and on the other hand, their compensation amounts in so far as enhancement is concerned, are still not paid.

11. They make a serious grievance about the apathy shown by the petitioners by deputing different persons on each date of the meetings. The petitioners should have been conscious about the fact that the Committee was formed by the Government not only in the interest of the agriculturists, but in the interest of the acquiring body and the Government, State as well as Central since an early resolution to such claims would reduce the quantum of the interest

component on the amounts which were to be paid as enhancement amounts. When this object is sought to be achieved, the petitioners could not have acted casually by sending 3 different persons in 3 meetings and each one of them now taking a stand that he had no authority to give his consent and he was not authorized to settle the matter. It is, therefore, submitted that if these petitions are to be considered by this Court, heavy costs be imposed on the petitioners for having reduced the meetings of the Committee to an empty formality and having wasted almost 2 years of the time of the State, Revenue Authorities, the Judiciary and the claimants.

12. It is also submitted by them that the quantum at which the amounts have been enhanced, are within the prescribed limit of not exceeding 5 times of the LAR award amount. To be precise, the enhancement is only 4 times and therefore legally sustainable. They further add that first appeals in some of such/similar cases have been dismissed by this Court confirming that the enhanced amounts are within the prescribed limits. Hence, in this fact situation, all these petitions deserve to be dismissed.

13. Having recorded the submissions of the learned Advocates as above, two issues crop up for decision in these cases. Firstly, that

whether the conduct of the petitioners in deputing unauthorized persons to attend the meetings and that too different persons on different dates of the meeting could be countenanced. Secondly, whether a compromise in the Lok Adalat, without the actual consent of the petitioners, could be foisted upon them by applying the doctrine of acquiescence or on an assumption of tacit consent.

14. I am in complete agreement with the grievance voiced by the learned Advocates for the claimants that when a special committee was formed under the chairmanship of a District Collector and by involving various revenue authorities including the District Government Pleader, the petitioners could not have casually looked at such meetings and could not have treated such meetings as being a formality. It is obvious that the petitioners have not applied their minds to such cases keeping in view that such a Committee was formed to achieve a laudable object of an early resolution of such disputes by consent which would, in turn, achieve the goal of expeditious disposal and payment of compensation and equally important, saving the interest component which the acquiring body would be paying from the tax payers' money.

15. Learned Advocate for the petitioners has attempted to justify

their conduct by stating that as they were not attending the meetings earlier, the learned Principal District Judge summoned the Chief Engineer of the Indian Railways. He met the learned Principal District Judge alongwith certain Officers and the Advocate representing the Railways and informed that the Railways does not have any instructions to settle the matter.

16. I find this explanation to be not only fallacious, but aimed at showing their reluctance and apathy in settling the matters when the object to be achieved was that the Indian Railways would have got an early disposal of all its cases and would have also saved the tax payers' money since the component of interest would naturally be curtailed if such matters are disposed off in lesser durations. I find it intriguing as to whether the Indian Railways does not have the wisdom to understand that this object of holding meetings to settle the issues would in fact assist the acquiring body in saving the tax payers' money.

17. Considering the above, I deem it appropriate to impose costs on the petitioners.

18. In so far as the issue of a compromise without the consent of

the acquiring body is concerned, it would be no compromise in the eyes of Law in view of Regulation 13 which would prohibit any compromise arrived at either by exerting pressure or by proceeding to accept the terms of compromise without the acquiring body signing on such terms of compromise. The impugned compromise award is therefore unsustainable.

19. This Court had passed an order on 02/07/2018 directing the petitioner to deposit 50% of the enhanced amount alongwith all accruals within a period of 8 (eight) weeks. It is informed that the petitioner has still not deposited the said amount in this Court and has taken advantage of the conditional ad-interim relief granted. Nevertheless, I do not find this to be a stage at which this issue could be taken any further since I find that the interest of these agriculturists is of paramount importance as they have lost their lands and are still litigating for enhanced compensation.

20. In view of the above, these petitions are partly allowed. The impugned compromise awards are quashed and set aside and all the concerned LAR proceedings shall stand remitted to the concerned LAR courts with the following directions :-

[a] As the learned Advocate for the petitioners submits on

instructions that within 6 to 8 weeks, the amounts as directed by this Court would be deposited before the LAR Courts, the petitioners shall therefore deposit the said amounts (upto 31/12/2018) in the LAR Courts on or before 30/03/2019 and there shall be no request for extension of time.

[b] If the said amounts are not deposited, the defence of the acquiring body in the LAR proceedings shall be struck off.

[c] If the amounts are deposited, the LAR Court would permit each of the claimants to withdraw their respective amounts as per the statement pertaining to their respective claims available before the Court.

[d] Each of the claimants would enter an affidavit undertaking that if excess amounts are received, pursuant to the decision in the proceedings, the said excess amounts would be re-deposited in the LAR Court within 8 weeks from the decision, without interest. After 8 weeks, the said amounts will accrue interest @ 4% per annum till re-deposited. Of course, this is subject to further litigation in such cases.

[e] The petitioner/Indian Railways shall, in addition to the above, deposit an amount of Rs.10,000/- per claimant as costs for its conduct as recorded in this order, on or before 30/03/2019. Failure to deposit would invite the same order as

set out above in clause (b).

[f] The LAR Court would now accord highest preference to these pending cases for the reason that these claimants need to receive their compensation amounts at the earliest and the growing interest which is to be paid from the tax payers' money will have to be curtailed.

[g] In the event these matters are not settled in Lok-Adalat with the ground work to be done by the concerned Committee constituted under the GR, the LAR Courts shall decide the said proceedings as expeditiously as possible and in any case on or before 31/07/2019. Adjournments on unreasonable grounds sought by the parties shall be refused.

21. Before parting with these matters, I find it appropriate to make certain observations which would wake up the Indian Railway Administration. The National Legal Services Authorities Act and the National Legal Services Authority (Lok Adalat) Regulations, 2009 are Central Enactment and the rules have been brought into force in exercise of the powers conferred by Section 29 of the Legal Services Authorities Act, 1987. It is unconscionable for the Indian Railways Administration to state, on the one hand and rightly that it cannot be pressurized to accept or to settle cases, but on the other hand, to

practically refuse to participate in the meetings of the Committee which is formed by the Maharashtra Government Resolution dated 13/10/2011. It cannot be countenanced that the Indian Railway Administration should be permitted to take a stand that it has no instructions to participate in Lok Adalats and allow the interest component to grow by passage of time on account of the non-resolution of such claims and pay such amounts from the State exchequer. Though the learned Advocate for the Acquiring body has made a valiant attempt to justify that the administration had no instructions to co-operate in the Lok-Adalat, I would find fault with the conduct of the railway administration in taking such a stand.

22. A copy of this order shall therefore be placed by the learned Registrar (Judicial) of this Court before the Cabinet Secretary (Union of India) Vinod Kumar Yadav, Chairman, Railway Board (Ministry of Railways) and also before the Chief Secretary of the State of Maharashtra so as to initiate steps to expedite the participation of the Indian Railway Administration in the Lok-Adalat.

23. I was inclined to direct that the costs amount should be recovered from the salary of such a responsible officer of the Indian Railway Administration who was authorized and capable of taking a

decision in this matter. However, the learned Advocate for the petitioners urges that this order may not be passed and that the Indian Railway Administration would deal with the issue of participation in the Lok Adalats at the highest level and expeditiously. As such, it is expected that the Indian Railways Administration shall take a decision, with utmost promptitude and preferably within a period of 2 months from today, to participate in the Lok Adalat matters especially in relation to land acquisition cases.

(Ravindra V.Ghuge, J.)